

REMARKS

Claims 20-25, 28-29, 31-34, and 37-44 are pending in the present application.

Reconsideration is respectfully requested in view of the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action. Reconsideration is respectfully requested in light of the above amendments and the following remarks.

Rejections under 35 U.S.C. §102(a)

(i) Claims 20, 22-25, 28, 29, 39 and 41-44 are rejected under 35 U.S.C. §102(a) as being clearly anticipated or at least anticipated by Platz et al. (US Pat. No. 6,509,006).

Applicants submit that the cited reference US Pat. No. 6,509,006 (Platz et al.) does not constitute prior art over the present application.

(a) US Pat. No. 6,509,006 is a *continuation-in-part* of:

Ser. No. 08/417,507, filed Apr. 4, 1995, now abandoned;

and a *continuation* of the following U.S. patent applications:

Ser. No. 08/383,475, filed Feb. 1, 1995;

Ser. No. 08/313,707, filed Sep. 27, 1994;

Ser. No. 08/309,691, filed Sep. 21, 1994;

Ser. No. 08/246,034, filed May 18, 1994;

Ser. No. 08/232,849, filed Apr. 25, 1994 (issued as US pat. No. 5,607,915);

Ser. No. 08/044,358, filed Apr. 7, 1993;

and a *continuation-in-part* of:

Ser. No. 07/910,048, filed Jul. 8, 1992 (issued as US pat. No. 5,458,135).

(b) The present application (Ser. No. 09/382,561) is a *continuation* of:

US Ser. No. 08/487,420, filed June 7, 1995 (issued as US Pat. No. 5,518,709) which is a *continuation-in-part* of: US Ser. No. 07/956,875, filed March 15, 1993 (issued as US Pat. No. 5,518,709), which has a priority date of April 10, 1991 based on the UK Application Ser. No. 9107628.1.

Applicants note that the claimed subject matter of the present application was disclosed in US Ser. No. 07/956,875, filed March 15, 1993 (US Pat. No. 5,518,709) which claims priority to UK Application Ser. No. 9107628.1, filed April 10, 1991. (The corresponding PCT Application PCT/GB/00643 was filed April 10, 1992). Thus the earliest priority date of the present application is **April 10, 1991**.

Support for the subject matter of the currently pending claims may be found throughout the Specification of US Ser. No. 07/956,875 (US Pat. No. 5,518,709), including among others the abstract; 1:62 – 4:5; 4:32 – 5:17; 5:52 – 7:27; 7:53 – 8:40; Examples 1, 7 – 10. A copy of US Pat. No. 5,518,709 is enclosed for the Examiner's reference and convenience.

The earliest priority date to which Platz et al. is entitled to is **Jul. 8, 1992** based on Ser. No. 07/910,048 and the priority date to which the present application is entitled, clearly predates Lutz et al.

(c) Applicants further submit that Ser. No. 07/910,048, which is the earliest priority document of the Platz et al. patent, does not include the disclosure on which the Examiner has relied as the basis of these grounds for rejection. Ser. No. 07/910,048 (USPN 5,458,135 to Patton et al.) is directed to aerosolized medicaments and does not disclose microcapsules. A copy of US Pat. No. 5,458,135 is enclosed for the Examiner's convenience and reference.

Applicants also note that two priority documents of Platz et al. which have issued as patents: US Ser. No. 08/309,691 filed Sep. 21, 1994 (which issued as US Pat. No. 5,785,049), and Ser. No. 08/232,849, filed Apr. 25, 1994 (which issued as US Pat. No. 5,607,915) also do not include the Examples I-XII or any other disclosure of the Lutz et al. patent which is the basis of the Examiner's rejection.

(ii) Claims 21, 31-34, 37, 38 and 40 are objected to as being dependent upon a rejected base claim. However, as argued above in section (i), independent claims 20 and 39, from which claims 21, 31-34, 37, 38 and 40 depend are not anticipated by Lutz et al.

Therefore, Applicants respectfully request that this ground of objection to claims 21, 31-34, 37, 38 and 40 be withdrawn.

CONCLUSION

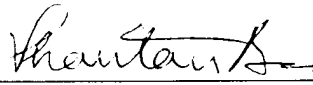
In light of the arguments set forth above, Applicants earnestly believe that they are entitled to a letters patent, and respectfully solicit the Examiner to expedite prosecution of this patent application to issuance. Should the Examiner have any questions, the Examiner is encouraged to telephone the undersigned.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 263742002801.

Respectfully submitted,

Dated: August 20, 2003

By: _____


Shantanu Basu
Registration No. 43,318

Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, California 94304-1018
Telephone: (650) 813-5840
Facsimile: (650) 494-0792